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Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 1244 (1999), by which the Council decided to establish the United Nations Interim Administration Mission in Kosovo (UNMIK) and requested me to report at regular intervals on the implementation of the mandate. It covers the activities of UNMIK, and developments related thereto, from 26 June to 31 October 2008.

II. Political situation

2. With the entry into force of the "Constitution of the Republic of Kosovo" on 15 June, the Kosovo authorities have continued to take steps towards asserting Kosovo's statehood. Following the establishment of a Ministry of Foreign Affairs, the Kosovo authorities announced the opening of diplomatic missions and the appointment of mission heads to 10 countries. As at 31 October, Kosovo had been recognized as an independent state by 52 countries. In its ongoing efforts to assume the prerogatives and responsibilities of a sovereign state, Kosovo applied for membership in the International Monetary Fund and the World Bank Group, decided to undertake a census of the population, established a Ministry for Security Forces and appointed a new, 11-member Central Election Commission. The Assembly of Kosovo continues to pass legislation, which is now adopted without reference to the powers of my Special Representative under resolution 1244 (1999) or the Constitutional Framework.

3. On 8 October, the General Assembly adopted a resolution submitted by Serbia requesting the International Court of Justice to issue an advisory opinion on the following question: "Is the unilateral declaration of independence by the Provisional Institutions of Self-Government in Kosovo in accordance with international law?". The Kosovo authorities expressed regret over the adoption of the resolution, stressing that Kosovo's independence was irreversible and that the review by the International Court of Justice of the legality of the declaration of independence would not prevent other countries from appreciating the constant progress in Kosovo or recognizing it as an independent state.

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4. The Government of Serbia and a majority of Kosovo Serbs continue to recognize UNMIK as their sole and legitimate civilian international interlocutor under resolution 1244 (1999). This has had significant implications, including in the police, customs and judicial sectors, where UNMIK continues to play a prominent role. A majority of Kosovo Serbs strongly reject any authority or symbol of Kosovo institutions. In the north, four municipal structures function on the basis of the law on local self-governance of Serbia. The local Kosovo Serbian community resists any real or perceived efforts by Kosovo authorities to exercise control north of the Ibar River. For example, it opposed efforts by Mitrovicë/Mitrovica municipality, which is based in the south, to initiate projects in the north, especially as neither UNMIK nor the community itself had been consulted. On 3 September, the Kosovo authorities announced their intention not to use force to extend their authority in the north.

5. The Kosovo Serb political leadership in northern Kosovo continued to express opposition to the deployment to the north of the International Civilian Office, foreseen in the Comprehensive Proposal for the Kosovo Status Settlement (S/2007/168/Add.1), which was not endorsed by the Security Council. It also continued to oppose the deployment of the European Union Rule of Law Mission in Kosovo (EULEX). The northern Kosovo Serb leaders claim that they will not change their stance, regardless of Belgrade's approach. Responding to a call by the self-proclaimed Assembly of the Union of the Municipalities of the Autonomous Province of Kosovo and Metohija, some 2,000 Kosovo Serbs protested on 2 October in northern Mitrovicë/Mitrovica, Shtërpcë/Štrpce and Graçanicë/Gracanica against the deployment of EULEX, as well as against the implementation of the settlement proposal.

III. Security

6. Kosovo witnessed several low-level, inter-ethnic security incidents during the reporting period. They included incidents of stone-throwing on 26 June between Kosovo Serbs and Kosovo Albanians in the ethnically mixed village of Berivojcë/Berivojca (Kamenicë/Kamenica municipality) over the proposed site for the construction of a new mosque and on 4 July over the construction of a water pipeline for the ethnically mixed village of Suhodoll/Suvi Do in northern Mitrovicë/Mitrovica. On 27 August, some 100 Kosovo Serbs and 70 Kosovo Albanians clashed in the ethnically mixed Three Towers area of northern Mitrovicë/Mitrovica. On 30 October, in the Kroi Vitaku area of northern Mitrovicë/Mitrovica, an attempt by a group of Kosovo Albanians to initiate preparations for the reconstruction of their homes without UNMIK authorization led to clashes with a group of Kosovo Serbs. UNMIK police and, subsequently, the Kosovo Force (KFOR) intervened to restore order. In connection with this incident, gunshots were exchanged in the vicinity between groups of Kosovo Albanians and Kosovo Serbs. No injuries were reported. In the municipality of Shtërpcë/Štrpce, Kosovo Serbs, led by the municipal president, who had been elected in the Serbian local elections of 11 May, which were not recognized by UNMIK, have repeatedly attempted to take over the municipal cadastral offices, but have been stopped by Kosovo Albanian employees supported by ethnically mixed Kosovo Police Service (KPS) patrol teams.

7. Following the creation of a new Kosovo Ministry for Security Forces in July and the appointment of the Minister in August, KFOR, in consultation with the

Kosovo authorities, launched the recruitment process for a future Kosovo security force. During the first stage, the selection will be made from the Kosovo Protection Corps (KPC) based on the needs of the security force and the successful completion of the approved vetting procedures. Those KPC members who will not be recruited into the Kosovo security force will be resettled, reintegrated or retired with dignity. A resettlement programme will be funded by a NATO trust fund and implemented by the United Nations Development Programme (UNDP).

IV. Rule of law

8. In Kosovo Serb-majority areas south of the Ibar River, 308 Kosovo Serb police officers continued to refuse to work within KPS and remain suspended from service. In the north, the courthouse in Mitrovicë/Mitrovica reopened on 3 October, on the basis of the dialogue of my Special Representative, Lamberto Zannier, with the Government of Serbia and his consultations with other stakeholders, and following approximately six months of an ongoing legal vacuum. International judges and prosecutors have been temporarily placed in the court and are handling only urgent criminal cases. In Zubin Potok, the municipal and minor offences courts are not operational as a result of the resignation of all Kosovo Serb support staff, while in the municipality of Leposaviq/Leposavić those courts function as part of the court system of Serbia. The Court Liaison Offices of the Kosovo Ministry of Justice, which facilitate access to justice for Kosovo Serbs, among others, continue to operate in a minimal way owing to security concerns. The Kosovo Ministry of Justice continues to pay salaries to all Court Liaison Offices and prosecutors' office staff, pending their possible return to work.

9. The decision by the Kosovo authorities to start issuing Kosovo passports following adjustment of the technical equipment at the Civil Registry Central Processing Centre means that it is no longer possible for UNMIK to continue to issue travel documents; as a consequence, their issuance was discontinued. The first Kosovo passports were issued in July. Kosovo authorities have not placed any restrictions on the use by Kosovo Serbs of Serbian passports and have begun issuing new Kosovo identity cards, while UNMIK and Serbian identity documents continue to be valid.

V. Municipal governance

10. On 3 July, the authorities in Pristina extended the mandates of the five Kosovo Serb-majority municipal assemblies of Shtërpcë/Štrpce, Novobërdë/Novo Brdo, Leposaviq/Leposavić, Zveçan/Zvečan and Zubin Potok. That measure has had very little impact on the ground in the northern municipalities, which are being administered by municipal leaders according to the results of the Serbian election of 11 May 2008. Novobërdë/Novo Brdo, which is the only Kosovo Serb-majority municipality with a Kosovo Albanian mayor, continues to function despite the boycott of the Kosovo Serbs. Shtërpcë/Štrpce has two competing administrations: a Kosovo Serb administration resulting from the Serbian elections of 11 May, and another with a Kosovo Serb mayor as its titular head and three Kosovo Albanian municipal directors, supported by the Kosovo authorities. Several Kosovo Serb municipal civil servants, including those in Novobërdë/Novo Brdo, Rahovec/

Orahovac and Gjilan/Gnjilane, have resigned from their posts in order to be included on the Belgrade payroll of the Serbian Ministry for Kosovo and Metohija.

VI. Returns and communities

11. The number of minority returns has declined sharply in comparison with previous years and remains disappointing. That development can be attributed not only to recent political developments, which have resulted in a lack of dialogue between Pristina and Belgrade at a technical level, but also to the non-transparent allocation of returns funding and the non-consultative approach to returns-related issues adopted by the Ministry of Communities and Returns. Of the 445 displaced persons who returned to Kosovo between January and September 2008, only 107 are Kosovo Serbs. They constitute 24 per cent of the total number of returnees in 2008, compared with an average of 43 per cent since 2000. In a security incident that may further affect returns to Kosovo, shots were fired in the direction of a group of six Kosovo Serb internally displaced persons from Serbia and of municipal, police and international organization officials during a "go and see" visit on 16 October to Dvoran/Dvorane village (Suharekë/Suva Reka municipality).

12. The returnee sustainability survey conducted by the Office of the United Nations High Commissioner for Refugees in Kosovo revealed that there had been a very high percentage of sustainable returns to Kosovo. Of the 5,632 returns to Kosovo between March 2005 and June 2008, 84.45 per cent (4,756) were found to be sustainable. The survey noted that the reasons for the departures of returnees were overwhelmingly linked to economic and educational concerns.

13. The Ministry of Communities and Returns has proposed a revision of the beneficiary selection criteria for individual returns so as to include Kosovo residents who were not displaced as a result of the 1999 conflict. The proposal was made without any consultation with the representatives of the associations representing internally displaced persons or non-governmental organizations. The policy shift, if approved, would divert already scarce funding for returns from the Kosovo budget to assist socially vulnerable individuals who reside in Kosovo, rather than facilitating the return of displaced persons. An internal report on the work of the Ministry, including findings on the non-transparent allocation of funds and abuse of authority, raises concern over the ability of the institution to implement its mandate. Funding allocation and other decision-making must be made in a transparent manner, and efforts should be made to control corruption and nepotism.

VII. Property

14. Following the adoption of the Kosovo Constitution, the Government of Serbia suspended the operations of the Kosovo Property Agency in Serbia. That has made it impossible to verify property documents in Serbia, obtain any corroborative evidence, contact claimants for additional information or communicate the results of an adjudication process to the parties concerned. If the decision to close Kosovo Property Agency offices in Serbia is not revoked, the number of claims ready for processing and referral to the Kosovo Property Claims Commission will ultimately decrease. That will be a severe inconvenience to the aggrieved individuals, the overwhelming majority of whom are from the Kosovo Serb community. My Special

Representative has highlighted this issue with his interlocutors in Belgrade, and talks will continue with all relevant stakeholders in order to broker a solution which will facilitate processing and payment of the large number of claims to beneficiaries.

VIII. Cultural and religious heritage

15. Work on the reconstruction of cultural and religious heritage sites by the Council of Europe-led Reconstruction Implementation Commission has been at a standstill since July 2008, as the Serbian Orthodox Church indicated that it would deal with the local authorities only through UNMIK acting under resolution 1244 (1999). The Chairperson of the Commission met my Special Representative on 27 August to request direct participation by UNMIK in the tendering and contract procedures for the reconstruction of the Serbian Orthodox Church sites damaged in March 2004. My Special Representative confirmed that UNMIK would be willing to provide continued support for all reconstruction activities, pending the finalization of the requisite modalities. Two meetings of the Commission, held in June and July, evinced goodwill among all stakeholders in seeking the successful and rapid conclusion of the undertaking, which concerns five key Serbian Orthodox sites in Kosovo. The requested outlay of nearly €1.7 million for 2008 for those projects has already been approved and is available. However, it appears unlikely that it will be possible to complete work in 2008.

16. Following discussions with the parties concerned, my Special Representative renewed his executive decision to establish a special zoning area around the Visoki Dečani monastery for three months, until 31 October 2008. The renewal was required because the Implementation and Monitoring Council created by the new Law on Protected Zones to replace the special zoning area local committee is not yet operational. The new law envisages a protected zone of the same size as the special zoning area, but it can be effectively implemented only with the cooperation of the Serbian Orthodox Church. On 19 September, the UNMIK district court in Pejë/Peć sentenced a Kosovo Albanian to three and a half years in prison in connection with the firing of a grenade at the monastery in March 2007.

17. On 12 July, my Special Representative received a written complaint by the Abbot of the Visoki Dečani monastery, Bishop Teodosije, that the municipality of Gjakovë/Đakovica had covered up the foundations of a destroyed Orthodox church in the centre of town and transformed the Church-owned site from what had in recent years been a waste dump into a public park without consultation with the Serbian Orthodox Church. UNMIK has expressed its concerns directly to the Mayor of Gjakovë/Đakovica and has requested that the Prime Minister, the Minister of Local Government Administration and the Minister of Culture, Youth and Sports intervene with the municipal authorities. The municipality does not appear to be willing to restore the site of the destroyed church, in part because at present no Serbs reside in the town.

IX. Economy

18. UNMIK continued to facilitate Kosovo's participation in regional economic initiatives. At the end of June, UNMIK and the Kosovo Ministry of Transport and

Communications participated in the launch of a treaty establishing a transport community of the western Balkans, opening the way for the inclusion of Kosovo in the treaty. In July, UNMIK and the Ministry participated in the steering committee meeting of the South-East Europe Transport Observatory. In August, UNMIK, in cooperation with Kosovo authorities, completed the process of signing an agreement on privileges and immunities of the secretariat of the Central European Free Trade Agreement, thereby clearing the way for the effective implementation of the agreement. The European Commission adopted the 2008 progress report for Kosovo, under resolution 1244 (1999), and the Kosovo authorities will present plans to address the recommendations set out in the report at the plenary session of the Stabilization and Association Process Tracking Mechanism on 2 December. The European Commission has also committed to presenting a feasibility study that will assess further means for Kosovo's progress, as part of the region, towards integration with the European Union. The European Union perspective contributes to peace and stability in Kosovo and in the wider region.

19. The situation along the Administrative Boundary Line has not changed since the destruction of customs facilities at gates 1 and 31 in northern Kosovo on 19 February. UNMIK Customs continued to have no presence at those gates, leading to an estimated loss of €2 million a week in customs and value added tax revenue in both the Kosovo and Serbian budgets. Smuggling levels, especially with regard to fuel, are significant, resulting in a high level of illicit profit for organized crime. The full reinstallation of customs controls forms part of the dialogue in which my Special Representative has been engaging with Belgrade.

20. As I noted in my report of 15 July (S/2008/458, para. 11), the economic reconstruction pillar of UNMIK (pillar IV) ceased all substantive operations on 30 June, pursuant to a decision by the European Commission. As a consequence, UNMIK does not at present possess any technical capacity or budgetary allocation to perform functions formerly carried out by pillar IV, if and when required. In this context, on 24 August, former local Kosovo Trust Agency (KTA) officials, appointed by the Kosovo authorities to official positions in the newly established Privatization Agency of Kosovo, took over the KTA compound in the presence of Kosovo Police Service officers. No incidents were reported, as security personnel guarding the premises refrained from taking any action that might have increased tensions or led to the use of force. The originals of documents related to the direct involvement of UNMIK with the management of KTA have been duly secured and are in the Mission's possession. Following the takeover of the compound, the Privatization Agency is expected to attempt to restart the privatization process. The KTA trust funds are held in KTA accounts with the Central Banking Authority of Kosovo, which is under clear instructions, in accordance with the executive decisions of my Special Representative, not to interfere or allow any interference with the funds unless expressly instructed under a legal instrument authorized by my Special Representative.

X. UNMIK reconfiguration

21. As a consequence of the deeply diverging paths taken by Belgrade and the Kosovo authorities following Kosovo's declaration of independence, the space in which UNMIK can operate has changed. As is evident from the developments on the ground, my Special Representative is facing increasing difficulties in exercising his mandate owing

to the conflict between resolution 1244 (1999) and the Kosovo Constitution, which does not take UNMIK into account. The Kosovo authorities frequently question the authority of UNMIK in a Kosovo now being governed under the new Constitution. While my Special Representative is still formally vested with executive authority under resolution 1244 (1999), he is unable to enforce this authority. In reality, such authority can be exercised only if and when it is accepted as the basis for decisions by my Special Representative. Therefore, very few executive decisions have been issued by my Special Representative since 15 June.

22. Against this background, and on the basis of my instructions to my Special Representative to move forward with the reconfiguration of the international civil presence in Kosovo within the framework of resolution 1244 (1999), UNMIK formally announced on 26 June the start of a reconfiguration process. As part of that process, the UNMIK Department of Civil Administration and the Office of Communities, Returns and Minority Affairs have ceased their activities, in anticipation of their amalgamation into the Mission's Office of Political Affairs. The civil administration field network has been recalibrated, while a focus on reporting on minority issues is retained through a smaller field presence in key areas where minorities live.

23. The relationship of UNMIK with EULEX has evolved over the reporting period under the terms set forth in my special report to the Security Council on UNMIK of 12 June (S/2008/354). I expect EULEX to move forward with its deployment in the coming period and to assume responsibilities in the areas of policing, justice and customs, under the overall authority of the United Nations, under a United Nations umbrella headed by my Special Representative, and in accordance with resolution 1244 (1999). UNMIK has been working closely with EULEX on technical arrangements designed to facilitate its deployment under resolution 1244 (1999). On 18 August, UNMIK and EULEX signed a technical arrangement on the sale of UNMIK surplus equipment and vehicles; implementation of this arrangement is ongoing. Office space no longer needed by UNMIK is being made available to EULEX. UNMIK has moved its staff to its administrative headquarters, which is more suitable for the new size and needs of the Mission, and has vacated its Mission headquarters compound in the centre of Prishtinë/Priština. UNMIK has also vacated regional logistics bases for which it no longer has any operational need. As a result of this, UNMIK has been able to accommodate the request of EULEX for surplus office space without in any manner hindering the Mission's operations.

24. Pursuant to an operational arrangement on access to and disclosure of materials concerning certain criminal investigations and related judicial proceedings, the UNMIK Department of Justice has established guidelines to facilitate access by EULEX prosecutors to the case files handled by international prosecutors and special prosecutors. Access to police material concerning certain criminal investigations is provided to the EULEX police component on the basis of a similar arrangement agreed upon in September. Another operational arrangement is near finalization, with a view to enabling EULEX to gain access to the International Judicial Support Division files.

25. The Pristina authorities have welcomed the beginning of the UNMIK reconfiguration. However, Pristina has expressed some reservations concerning a

perceived lack of clarity on the timing of the process and regarding competencies to be retained by UNMIK.

XI. Dialogue with Belgrade

26. Discussions have been conducted reflecting my intentions as set out in my report of 12 June 2008 to the Security Council on the United Nations Interim Administration Mission in Kosovo (S/2008/354) on the basis of the status-neutral approach of the United Nations.

27. My Special Representative has advised that dialogue and consultations with all parties have been conducted in Belgrade and Pristina without prejudice to their positions on the status issue and in the spirit of the Charter of the United Nations. All have continued to seek pragmatic progress in the discussions with my Special Representative on the six provisions outlined in my report. I am grateful for their commitment to such progress and look forward to continuing dialogue on those and other issues.

28. As made clear in my report, each of the arrangements for the six points will apply until the relevant follow-up mechanisms have been put in place. In this context, I note that all parties have accepted the reconfiguration of the structure and profile of the international presence, as envisaged in paragraph 16 of my report, to one that corresponds to the evolving situation in Kosovo and enables the European Union to assume an enhanced operational role throughout Kosovo, in particular in the areas of international policing, justice and customs (see also para. 50 below).

29. The results of the discussions are set out below. While results have been achieved in respect of some of the six points, others will require continued discussion. I welcome the positive outcome of the discussions and the acceptance by Serbia of these arrangements.

A. Police

30. Discussions have highlighted a shared general objective to implement the rule of law throughout Kosovo. This should better ensure the protection of all communities, the coherent administration of criminal justice, the non-discriminatory application of criminal law and the full delivery of police services with respect for human rights to all communities.

31. In accordance with international best practice, policing should reflect the entire society, and community-based policing would, as far as feasible and appropriate, provide policing services by members of the local communities. Particular attention would thus be given, under international supervision, to the working conditions of Kosovo Serb police officers in their places of employment. Active discussions are already under way in this regard.

32. Stations and sub-stations in minority areas have been opened in all municipalities. Additional sub-stations will be opened as security and/or operational needs warrant. Stations and sub-stations will remain under the existing chain of command and will be monitored by international police.

33. Through the UNMIK Police Commissioner, my Special Representative will initiate the appointment to a senior position, according to the applicable law, of a Kosovo Serb police officer of appropriate experience, who will have, among other duties, responsibilities related to field activities. The officer will report to the senior international police officer in Kosovo through existing command channels.

34. All policing in Kosovo will be internationally monitored, as agreed under current arrangements and arrangements for the future. International police monitors will be deployed to all stations and sub-stations, regions and departments. Such monitors will have an independent command structure and a reporting line, which currently ends with the Special Representative. Besides monitoring the rule of law, the international role will oversee the fair treatment of minority police officers and the protection of working conditions under the applicable manuals. A training package will be prepared to ensure that international monitors have appropriate skills.

B. Customs

35. Kosovo will continue to function as a single customs area.

36. International customs officers appointed in accordance with Security Council resolution 1244 (1999) will be reinstated at gates 1 and 31. Their deployment modalities will as far as possible reflect the modalities of the European integrated border management concept, which may include co-location of customs points. The officers will apply procedures in accordance with resolution 1244 (1999), including the protocol between the tax administration of Serbia, acting for the Ministry of Finance, and the UNMIK Customs Service, acting for the United Nations Interim Administration Mission in Kosovo, on cooperation and mutual administrative assistance on value-added tax and excise tax matters related to the transport of goods across the Administrative Boundary Line, and annexes thereto, as well as the agreed minutes of the bilateral meeting in the context of the Central European Free Trade Agreement enlargement negotiations of 2006.

37. The rates consistent with the UNMIK regulation No. 2004/1 on Kosovo will be applied.

38. Further discussion will be necessary between relevant stakeholders to agree upon and determine operating modalities for the reactivation of the aforementioned customs points. Those discussions will also address the distribution of the customs revenues collected at gates 1 and 31, which should also, as appropriate, benefit the development of local communities.

C. Justice

39. The discussions have also indicated widespread acceptance of basic principles, including that the rule of law should be applied throughout Kosovo and that access to justice should be equally available to all, irrespective of ethnicity, community or locale. The principles support the operation of a coherent justice system, including civil and criminal matters and policing, throughout Kosovo.

40. Following discussions to develop the principles, the courthouse complex in northern Mitrovica has been recently made operational on a limited basis under UNMIK control, applying UNMIK law only and staffed by UNMIK personnel for a

period of up to 60 days from the opening of the courthouse. A phased plan has provided a framework for current and future judicial operations.

41. During subsequent phases, local judges and prosecutors will be appointed in accordance with Security Council resolution 1244 (1999). The mix of local judges and prosecutors appointed during the phases will reflect the communities and territorial jurisdictions that they will serve.

D. Transportation and infrastructure

42. The discussions have indicated acknowledgement of the need for close cooperation on major matters of infrastructure (road, rail, water, electricity), flows of traffic and trade and very important practical matters, such as recognition of qualifications. Many of these matters are of vital concern to citizens of all communities, and the absence of practical cooperative arrangements causes enormous problems.

43. In that regard, as indicated in my previous report (S/2008/354), a technical coordination committee would be established by my Special Representative to address all relevant issues. A technical coordination committee was established, but has not made any practical progress. However, the Government of Serbia has in the recent discussions, and while reiterating its position on the future status of Kosovo, indicated that it will re-invigorate that proposal so that the issues might be addressed more concretely. My Special Representative will ensure further dialogue. Making progress in these areas is not only a matter of security that will be welcomed in Europe but will also be a particularly welcome development for all the communities in Kosovo.

E. Boundaries

44. Many of the issues relevant to the management of the boundary will be addressed by the transportation and infrastructure technical committee process. Otherwise, and as indicated in my earlier report, in accordance with Security Council resolution 1244 (1999), KFOR, as the international military presence, will continue to fulfil its security mandate throughout Kosovo, including with respect to the boundaries, in conjunction with other international organizations.

F. Serbian patrimony

45. International protection of the Serbian Orthodox Church in Kosovo must and will continue. The discussions have shown universal support for the principle of the protection of the cultural heritage and patrimony of the Serbian Orthodox Church in Kosovo.

46. Under the present circumstances, and taking into account the status-neutral role of the United Nations in Kosovo, I consider that continued dialogue is necessary in Belgrade and Pristina. This should also involve the Serbian Orthodox Church, relevant international actors and other stakeholders. This would establish an agreed framework within which contentious issues could be addressed and could

also ensure that the Council of Europe and the reconstruction process led by the United Nations Educational, Scientific and Cultural Organization would continue.

47. The agenda would include the implementation of protective arrangements around major Serbian Orthodox Church sites, activities related to the welfare of the monks and nuns, such as exempting the Serbian Orthodox Church from value-added tax, excise tax and customs duties, modalities of reconstruction of the sites by the Serbian Orthodox Church and the issue of return of archaeological artefacts.

XII. Observations

48. In line with my special report (S/2008/354), which I presented to the Security Council on 20 June, UNMIK has begun to adapt its structure and profile in response to the profoundly changed reality in Kosovo following Kosovo's declaration of independence and the adoption of a Constitution. As anticipated, UNMIK has faced significant challenges to its ability to perform the vast majority of its tasks as an interim administration, including in the areas of civil administration and economic governance, and in other areas where new institutions are being created and new roles assumed by the Kosovo authorities under the Constitution.

49. These challenges have underscored the need to move forward with the reconfiguration of UNMIK within the framework of resolution 1244 (1999). The reconfiguration is both timely and necessary, and is being accelerated in order to adapt it fully to the prevailing circumstances on the ground. It is taking place in a transparent manner with respect to all stakeholders and is consistent with the United Nations position of strict neutrality on the question of Kosovo's status. EULEX, as it deploys and becomes operational, will undertake rule-of-law functions, in accordance with paragraph 50 below.

50. Following my instructions, my Special Representative and Head of UNMIK is facilitating the European Union preparations to undertake an enhanced operational role in Kosovo in the rule of law area. EULEX will fully respect Security Council resolution 1244 (1999) and operate under the overall authority and within the status-neutral framework of the United Nations. EULEX will submit reports to the United Nations on a regular basis. The deployment of EULEX throughout Kosovo will be carried out in close consultation with relevant stakeholders, taking into account the specific circumstances and concerns of all communities, and will be coordinated with UNMIK.

51. The Organization for Security and Cooperation in Europe (OSCE) will remain a central element of a reconfigured UNMIK through the OSCE mission in Kosovo. Through its field presence, OSCE will continue to play a crucial role in building and monitoring Kosovo institutions and supporting Kosovo minority communities.

52. My Special Representative has embarked on a dialogue with the Government of Serbia on the areas addressed in my letter to President Tadić of 12 June. The Government of Serbia has accepted the results of the discussions in this dialogue and the arrangements set out in the present report. My Special Representative has also consulted the authorities in Pristina. They have clearly expressed that they do not accept the results of the arrangements contained in the present report. In a statement made on 18 November (see annex I), the authorities in Pristina indicated that, in addition to rejecting the results of the dialogue, they favoured the quick

deployment of EULEX and would cooperate with EULEX on its deployment throughout the territory of Kosovo on the basis of the documents referred to in the statement. I am encouraged by Pristina's indication that it is willing to cooperate with EULEX, and, inter alia, with the European Union and NATO. I have asked my Special Representative to reassure the authorities in Pristina that the implementation of the temporary arrangements as set out in the present report will be carried out on the basis of continuous consultation and coordination.

53. I would like to express my appreciation and gratitude to my Special Representative, Lamberto Zannier, for his leadership in managing the evolving role of UNMIK during a challenging period. I would also like in particular to commend the staff of UNMIK for their dedicated efforts and commitment to Kosovo and the goals of the United Nations, including the local and international staff that will be affected by the reconfiguration of the Mission. I would like to extend my thanks to the United Nations partners — KFOR, the European Union and the Organization for Security and Cooperation in Europe — and to the United Nations agencies, funds and programmes for their ongoing support.

Annex I

Statement by the authorities in Pristina, 18 November 2008

1. We are in favour of a quick deployment of EULEX in Kosovo in accordance with the mandate foreseen in the Declaration of Independence, the Comprehensive Proposal for a Kosovo Status Settlement, the Constitution of the Republic of Kosovo, Kosovo legislation, the European Union Joint Action of 4 February 2008 and Kosovo's institutions' invitation to EULEX.

2. Kosovo's institutions reject the whole six-point document.

3. Kosovo's institutions will cooperate with EULEX on its deployment throughout the entire territory of Kosovo, based on the mandate foreseen in the documents mentioned in (1) above, respecting the sovereignty and territorial integrity of the Republic of Kosovo.

4. The institutions of the Republic of Kosovo will, as always, continue the close cooperation with the United States, the European Union and NATO.

Annex II

Technical assessment of progress in the implementation of the standards for Kosovo

Prepared by the Special Representative of the Secretary-General for Kosovo, 27 October 2008

1. The United Nations Interim Administration Mission in Kosovo (UNMIK) has continued to monitor the areas covered by the standards programme. The implementation of standards is taking place with the Agency for European Integration within the Kosovo authorities in the lead.

Functioning democratic institutions

2. With the promulgation of relevant election laws by the President of Kosovo, the executive responsibility for the organization of elections was assumed in its totality by the Kosovo Central Election Commission. A new, 11-member Central Election Commission was nominated and appointed by presidential decree on 19 August.

3. The newly formed Election Complaints and Appeals Commission, a five-member body of Supreme Court judges, provides for redress of grievances relating to electoral issues. A degree of continuity has been maintained, as two of the members were already in their posts during the 2007 elections. One of the members is a Kosovo Roma; no qualified Kosovo Serb was willing to be nominated.

4. Three Kosovo Serb Assembly members not affiliated with the caucus of the Independent Liberal Party (SLS) parliamentary group continue to boycott the work of the Assembly. Seven Kosovo Serb Assembly members regularly attend the sessions.

5. Kosovo's new legal framework provides for a large degree of local governance and envisages an increase in the number of municipalities from 33 at present to 38. However, the non-participation of the Kosovo Serb community is paralysing the process of creating the new Kosovo Serb majority municipalities foreseen in the new Law on Municipal Boundaries.

6. Among the Kosovo municipalities, five have Kosovo Serbs as second vice-presidents of the municipal assembly (Gjilan/Gnjilane, Kamenicë/Kamenica, Viti/Vitina, Lipjan/Lipljan and Rahovec/Orahovac). No Kosovo Serbs are currently active members in the municipal assemblies. Ten Kosovo Serb members of the Novobërdë/Novo Brdo municipal assembly, who were appointed by the Special Representative of the Secretary-General, have not resumed their responsibilities. There are just four Kosovo Serb representatives in various municipal committees and only seven Kosovo Serb heads of municipal community offices, in Gjilan/Gnjilane, Kamenicë/Kamenica, Graçanicë/Gračanica, Klinë/Klina, Rahovec/Orahovac, Lipjan/Lipljan and Obiliq/Obilić.

7. The three northern municipalities (Zveçan/Zvečan, Leposaviq/Leposavić, Zubin Potok), where all government officials and almost all civil servants are from the Kosovo Serb community, are the exception. Two Kosovo Albanian municipal community officers work in Zveçan/Zvečan municipality.

8. Most of the municipalities have not met their fair-share financing obligations. The low level of fair-share financing spending is a result of the fact that many projects are still ongoing and will be finalized only at the end of 2008, as well as of the widespread non-participation of Kosovo Serb municipal civil servants, which has resulted in lower general expenses and salary payments for non-majority employees.

9. As a result of the new Law on Local Government Finance, municipalities are expected to integrate fair-share financing into their regular budget from 2009 onwards, which will make following up on the use of funds targeted towards the minority communities challenging.

10. A total of 36 editions of the Official Gazette have been published in hard copy and made available in electronic form. Each edition is published in the Albanian, Serbian, English, Turkish and Bosnian languages. The extensive legislative activity of the Assembly of Kosovo reinforces the need for more special editions of the Official Gazette.

11. The Language Commission should start intervening proactively in all cases of violations by central and municipal authorities of the Law on the Use of Languages. The Government of Kosovo should also provide the Commission with adequate financial and logistical resources to enable it to function properly.

12. The Senior Public Appointments Committee should appoint the chief executive officer of the Agency for Gender Equality.

Rule of law

13. On 14 July, an international prosecutor filed an indictment charging a Kosovo Albanian with leading a group that burned Kosovo Serb houses and churches and threw stones at the offices of UNMIK, the Prizren police station and the regional police headquarters, as well as at police officers who attempted to defend those locations during the rioting in March 2004.

14. Minority representation within the Kosovo Police Service (KPS) remains roughly constant at 15.5 per cent (10 per cent Kosovo Serb). Minority representation figures are derived from the payroll and include the Serbs who are still being paid but are not working. Substantial efforts are needed to retain Kosovo Serb police officers or to hire new ones in order to maintain multi-ethnicity in KPS and ensure law and order in the minority communities. Minority representation in the Kosovo Correctional Service is at 13.2 per cent (9.53 per cent Kosovo Serb). Female representation held steady at 13.5 per cent in KPS and rose to 17.2 per cent in the Kosovo Correctional Service.

15. The Kosovo Correctional Service has begun the procedure to advertise vacancies for the positions currently occupied by 74 Kosovo Serb staff who have been boycotting their workplaces in the Gjilan/Gnjilane and Lipjan/Lipljan detention centres and the Lipjan/Lipljan prison since the declaration of independence. However, those staff members have not been dismissed, continue to receive their salaries and will be able to return to their positions if willing to do so.

16. UNMIK, the United Nations Office for Project Services, the European Commission and the Government of the United States of America continue to make

progress in the appointment process for judges and prosecutors. That process is a comprehensive review of all appointments for judicial and prosecutorial positions in Kosovo and is scheduled to be concluded before the end of 2008.

17. The creation of a unified department or agency for missing persons and forensics within the Ministry of Justice is foreseen in the Law on the Establishment of the Department of Forensic Medicine, which is currently being drafted.

Freedom of movement

18. Freedom of movement surveys conducted by the Kosovo Police Service consistently show that more than 96 per cent of minority community members continue to travel outside their areas of residence. The number of Kosovo Force (KFOR) fixed positions was reduced to 9 in August from 23 each month from March to May.

19. According to the returnee sustainability survey conducted by the Office of the United Nations High Commissioner for Refugees in Kosovo, freedom of movement is not a serious concern of the minority communities, except for the Kosovo Albanian minorities in northern Kosovo.

20. The highly symbolic Serbian national day, Saint Vitus' Day, or Vidovdan, on 28 June, passed without incident with the turnout of an estimated 1,500 people at the annual celebrations at the Gazimestan monument — the site of the battle in 1389 when a Serb-led coalition was defeated by Ottoman Turkish forces, heralding more than five centuries of Ottoman rule.

21. A replacement footbridge built across the Ibar River connecting south Mitrovicë/Mitrovica to the Three Towers mixed area in the north was inaugurated in July, facilitating freedom of movement for all communities. Construction of the bridge was financed from the Special Representative's contingency fund.

22. The Ministry of Transport and Communications decided to split the humanitarian bus service, which had been a unique service operated by a single provider, into 14 lots, comprising 25 routes, including 7 new routes. The Ministry selected and signed contracts with eight new service providers, which started operating their assigned routes on 16 August. The selected service providers will operate their own fleets of buses, not those donated by UNMIK for that purpose. It remains to be seen to what extent access to the humanitarian bus transportation service will be hindered by the decision to split the routes and assign them to a number of different service providers.

23. The Transport Advisory Committee should be enabled to fulfil its obligations under the arrangement signed by UNMIK and Kosovo authorities. Attempts to bypass the Transport Advisory Committee may result in disregard for the freedom-of-movement concerns of non-Albanian communities.

24. The Freedom of Movement train connecting southern and northern Kosovo has not resumed operation. Stations in Kosovo Serb-majority areas in northern Kosovo are controlled by parallel structures, and Kosovo Serb staff have ceased to report to Kosovo Railways.

Sustainable returns and the rights of communities and their members

25. The number of minority returns to Kosovo has declined in comparison with previous years. The main reasons for the decline include lack of dialogue between Prishtinë/Priština and Belgrade at a technical level, illegal occupation of private properties and lack of adequate capacity in the Ministry of Communities and Returns for the implementation of returns programmes.

26. On 16 July, 13 Kosovo Serb returnee families, together with 6 Kosovo Albanian and Roma families, received the keys of their reconstructed houses in Klinavc/Klinavac (Klinë/Klina). The displaced families received support in the form of housing reconstruction and socio-economic assistance. The project cost €504,000 and was implemented by the municipality, with funding from last year's Kosovo consolidated budget.

27. The viability of the Kllobukar/Klobukar returns project, which was launched this year by the Ministry, is in doubt, as the Kosovo Serb representatives and the Municipal Returns Officer have expressed serious concerns about the process for selecting beneficiaries.

28. On 1 September, the Llapje Sellë/Laplje Selo (Prishtinë/Priština) return project, valued at €2 million, was launched. The project seeks to construct three apartment blocks to house 60 displaced and vulnerable families at a location other than their place of origin. The ethnicity of the beneficiaries and modalities for their selection, a process which has not yet started, remain serious issues.

29. Associations for internally displaced persons and representatives of civil society called for a more consultative and inclusive approach by the Government of Kosovo, primarily the Ministry of Communities and Returns, to ensure successful returns. At a seminar organized by UNMIK in July, participants agreed that the municipalities should play a lead role on all returns-related issues, and stressed the need for greater financial support. Associations for internally displaced persons and civil society groups strongly advocated for the better implementation of the current returns manual and policy framework rather than the crafting of a new one.

30. The Ministry of Communities and Returns can make a revision to the existing returns policy framework only in consultation with the internally displaced persons and their associations. Funding allocation and other decision-making must be made in a transparent manner, and efforts should be made to control corruption and nepotism.

31. The Ministry of Communities and Returns has agreed to ensure an appropriate level of funding for the management of Camp Osterode in the fiscal year 2009. The Ministry is also considering the prospect of contracting a local implementing partner to assume direct management functions of Camp Osterode from Norwegian Church Aid (NCA) from January 2009. NCA also offered to train the future local implementing partner to facilitate the smooth handover of operations in January 2009.

32. The United States Agency for International Development (USAID) has allocated $2.4 million to support the sustainable resettlement and reintegration of 50 Roma, Ashkali and Egyptian families currently displaced and living in Camp Çesmun Llug/Česmin Lug and Camp Osterode in northern Mitrovicë/Mitrovica. The

Government of Norway has also allocated funds for the construction of 24 housing units in the Roma Mahalla.

33. The results of the blood tests conducted by the Institute of Public Health of Serbia in April 2008 on children currently living in the Çesmun Llug/Česmin Lug and Osterode camps in northern Kosovo allegedly showed that, for all but two of the 104 children tested, lead levels in their blood exceeded the maximum acceptable levels. As the World Health Organization (WHO) was not involved in the testing, it has urged all stakeholders involved in testing lead levels in blood and in the environment to coordinate their activities with WHO.

34. The receiving municipalities are not aware of their responsibilities to facilitate the reintegration of forcibly repatriated persons, and financial means have still not been allocated at the municipal level for that purpose. This indicates a failure of the Government to ensure the implementation of the reintegration strategy for repatriated persons.

35. Pupils and teachers of the Kosovo Gorani community, who advocate for education in Dragash/Dragaš municipality according to the curriculum of the Serbian Ministry of Education, have come under renewed pressure from the Kosovo authorities to abandon any educational activity funded by the Government of Serbia. One hundred and eight students who are being denied access to the main school there sent a letter of complaint to UNMIK and other government officials on 20 October. The Kosovo authorities have yet to develop a curriculum in the Serbian language, and prospects of higher education in Serbian remain in doubt.

Property rights

36. Notwithstanding the closure of the Kosovo Property Agency (KPA) offices in Belgrade, Kragujevac and Niš, KPA has been keeping up the momentum in the adjudication process. During the seventh session of the Kosovo Property Claims Commission, held in June, a total of 2,880 cases were adjudicated, while the latest session, held in August, resolved 2,920 claims. The total number of cases adjudicated by the Commission stands at 14,105, or 39 per cent of all claims received.

37. KPA continued to administer abandoned properties and the voluntary rental scheme. There are currently 4,325 abandoned properties under KPA administration, of which 2,258 properties participate in the rental scheme with the consent of their owners. Thus far, a total of €856,542.99 in rent has been collected.

38. In the interests of the people who seek justice in respect of their property, the closure of the KPA offices should be separated from the status issue and addressed primarily in terms of the rights of the claimants to have their claims addressed in the shortest possible time.

Cultural heritage

39. Security for cultural and religious heritage sites continues to be a priority. KPS continues to maintain a round-the-clock static presence at the Church of Saint Nicholas in Prishtinë/Priština, as well as routine patrolling of cultural and religious sites across Kosovo.

40. There has been a noticeable reduction in the number of incidents of vandalism and theft at religious and cultural sites. During the reporting period, KPS recorded a total of 14 minor incidents, of which 7 are under investigation, and one arrest has been made. A private security company contracted by the Ministry of Culture, Youth and Sports continues to provide additional security at several Serbian Orthodox sites.

41. The Reconstruction Implementation Committee will require the continued support of all stakeholders, particularly the Serbian Orthodox Church, in order to conclude its undertaking. The Government of Kosovo also needs to enhance its cooperation with the Council of Europe and the United Nations Educational, Scientific and Cultural Organization on all issues related to the protection and preservation of cultural and religious heritage in Kosovo.

Kosovo Protection Corps

42. Minority representation in the Kosovo Protection Corps has remained at 6.1 per cent, including the representation of Kosovo Serbs, which has decreased slightly from 1 per cent to 0.98 per cent (from 30 to 28 members) since May. The Kosovo Protection Corps currently has 2,865 active members, of which 173 are minorities (38 Kosovo Turks, 35 Kosovo Ashkali, 34 Kosovo Bosniak, 28 Kosovo Serbs and 38 from other Kosovo communities). Female representation in the Kosovo Protection Corps remains at 3 per cent (86 members).

43. Members of the Kosovo Protection Corps are aware of the planned dissolution, but it is important that they be informed about the pension arrangements and resettlement programme once those arrangements have been approved, in order to promote their successful resettlement and retirement.

Annex III

Police component of the United Nations Interim Administration Mission in Kosovo

Composition and strength of the police component of the United Nations Interim Administration Mission in Kosovo

(as at 27 October 2008)

Country	*Number*	*Country*	*Number*
Argentina	10	Malawi	4
Austria	19	Nepal	7
Bangladesh	147	Nigeria	21
Brazil	2	Norway	9
Bulgaria	45	Pakistan	128
China	18	Philippines	26
Croatia	14	Poland	122
Czech Republic	15	Romania	178
Denmark	17	Russian Federation	34
Finland	4	Slovenia	6
France	32	Spain	14
Germany	121	Sweden	10
Ghana	31	Switzerland	5
Greece	2	Turkey	125
Hungary	10	Uganda	4
India	89	United Kingdom of Great Britain and Northern Ireland	43
Italy	38	United States of America	212
Jordan	74	Ukraine	181
Kenya	14	Zambia	10
Kyrgyzstan	9	Zimbabwe	24
Lithuania	6		
Total			**1 880**

Composition of the Kosovo Police Service

(as at 27 October 2008)

Category	*Percentage*	*Number*
Kosovo Albanians	84.48	5 950
Kosovo Serbs	10.00	704
Other ethnic minority members	5.52	389
Total		**7 043**
Men	86.57	6 097
Women	13.43	946

Annex IV

Composition and strength of the military liaison component of the United Nations Interim Administration Mission in Kosovo

(as at 27 October 2008)

Country	*Number of liaison officers*
Argentina	1
Bangladesh	2
Bolivia	1
Bulgaria	1
Chile	1
Denmark	1
Ireland	4
Jordan	1
Norway	1
Pakistan	1
Poland	1
Portugal	2
Romania	3
Russian Federation	1
Spain	2
Ukraine	4
Total	**27**

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